

# *Amicus Curiae* Year in Review

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May 2019

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PLAC

Case Selection Committee

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# Year In Review

The Case Selection Committee is pleased to present its 2018 Review.

In 2018, PLAC’s Case Selection Committee (CSC) reviewed 30 requests for amicus briefs and drafted/submitted briefs in 19 of those cases, including three briefs supporting petitions for writ of certiorari. Briefs were filed in the following courts:

Federal	State
US Supreme Court (4) First Circuit Court of Appeals Second Circuit Court of Appeals Fourth Circuit Court of Appeals Seventh Circuit Court of Appeals	AZ Supreme Court (1) AZ Court of Appeals (1) CA Supreme Court (2) GA Court of Appeals (2) NM Supreme Court PA Superior Court PA Supreme Court SC Supreme Court WA Supreme Court

*‘Were you to test the "intellectual DNA" of state and federal law across the country in the fields of preemption, punitive damages, class actions, and the standard for admissibility of expert testimony, you would find PLAC's DNA...’*

*Chilton Davis Varner, Esq.  
King & Spalding*

## **Briefs Filed in 2018**

Case	PLAC #	Venue	Issue	Brief Writer
<i>People v Sherwin Williams</i>	18-101	CA Supreme Court (pet)	Nuisance / Novel Theory	Alan Lazarus
<i>Dolin v. GlaxoSmithKline</i>	18-102	Seventh Circuit	Innovator Liability	Kannon Shanmugam
<i>Ruble v. Pfizer, Inc.</i>	18-103	WA Supreme Court	Apparent Manufacturer	Henderson Jonathan Hoffman
<i>Gustavsen v. Alcon Laboratories, Inc.</i>	18-106	First Circuit	Consumer Fraud	Dave Geiger
<i>Baker v. Saint-Gobain Perf. Plastics</i>	18-107	Second Circuit	Medical Monitoring	Jim Beck
<i>City of Modesto v. Dow Chemical Co</i>	18-108	CA Supreme Court (ltr)	Nuisance	Alan Lazarus
<i>Jackson v. Home Depot USA, Inc. (1)</i>	18-109	US Supreme Court (pet)	CAFA	Archis Parasharami
<i>People v Sherwin Williams (2)</i>	18-111	US Supreme Court (pet)	Nuisance / Novel Theory	Alan Lazarus
<i>In re: Pelvic Mesh Litigation (J&amp;J)</i>	18-113	PA Superior Court	Specific Personal Juris.	Chris D'Angelo
<i>Air &amp; Liquid Systems Corp v. DeVries</i>	18-114	U.S. Supreme Court	Bare Metal/Admiralty	Jim Beck
<i>Krakauer v. DISH Network (2)</i>	18-115	Fourth Circuit	Vicarious Liability	Deidre Fox
<i>Bustos v. Ford and Cooper Tire</i>	18-116	NM Supreme Court (pet)	Specific Personal Juris.	MC Sungaila
<i>Albrecht v. Merck (2)</i>	18-117	U.S. Supreme Court	Preemption/Warnings	Alan Untereiner
<i>Wickersham v. Ford Motor Co.</i>	18-118	SC Supreme Court	Comparative Fault	Gray Culbreath
<i>Walsh v. BASF (Bayer/Dow) (1)</i>	18-122	PA Supreme Court (pet)	Expert Ev/Causation	Jim Beck
<i>Hill v. Ford Motor Co.</i>	18-123	GA Court of Appeal (pet)	Sanctions.	Chilton Varner
<i>Johns v. Suzuki Motor Corp</i>	18-124	GA Court of Appeals	Recall/Sim Inc.	Richard North
<i>Conklin v Medtronic</i>	18-125	AZ Supreme Court	Preemption/Warnings	Alan Lazarus
<i>Center Auto Safety v. Goodyear</i>	18-128	AZ Court of Appeals	Trade Secrets	M.C. Sungalia

## Decisions Issued in 2018

During 2018, courts issued decisions in 17 cases briefed by PLAC. In four of those cases, the prevailing party was supported by a PLAC brief. Those cases, designated as “wins” in the Result column below, involved issues of preemption, expert evidence, causation and design defect.

Case Name	PLAC Brief Number	Venue	Issue	Result
<i>Martinez v. American Honda</i>	15-137	PA Superior Court	Design Defect	Loss
<i>Kim v. Toyota Motor Corp.</i>	16-119	CA Supreme Court	Design Defect	Win
<i>Cervený v. Aventis</i>	16-130	Tenth Circuit	Preemption	Loss
<i>Thompson v. TRW Automotive</i>	16-134	Ninth Circuit	Design Defect	Loss
<i>H.(T.) v. Novartis Pharmaceuticals</i>	16-137	CA Supreme Court	Innovator Liability	Loss
<i>In re Motors Liquidation</i>	16-141	US Supreme Court (pet)	Successor Liability	Loss
<i>Campbell v. Boston Scientific</i>	17-104	Fourth Circuit	MDL Abuse	Loss
<i>Lopez v. Sony Electronics, Inc.</i>	17-106	CA Supreme Court	Statute of Limitations	Loss
<i>In re Lipitor Prods. Liab. Litig.</i>	17-121	Fourth Circuit	Expert Ev./Causation	Win
<i>Koch v. Cooper Tire (2)</i>	17-122	GA Supreme Court	Spoliation	Loss
<i>Graham v. RJ Reynolds (5)</i>	17-126	U.S. Supreme Court (pet)	Due Process	Loss
<i>Rafferty v. Merck &amp; Co., Inc.</i>	17-128	MA Supreme Jud Court	Innovator Liability	Loss
<i>Walden v. Chrysler Group LLC (3)</i>	17-129	GA Supreme Court	Design Defect/Repose	Loss
<i>Dunson v. Cordis, Inc. (2)</i>	17-130	U.S. Supreme Court (pet)	CAFA	Loss
<i>Albrecht v. Merck (1)</i>	17-132	U.S. Supreme Court (pet)	Preemption	Win
<i>Rublee v. Pfizer, Inc.</i>	18-103	WA Supreme Court	Apparent Manufacturer	Loss
<i>Conklin v Medtronic</i>	18-125	AZ Supreme Court	Preemption/Warnings	Win

## A Look at 2019 - First Quarter Report



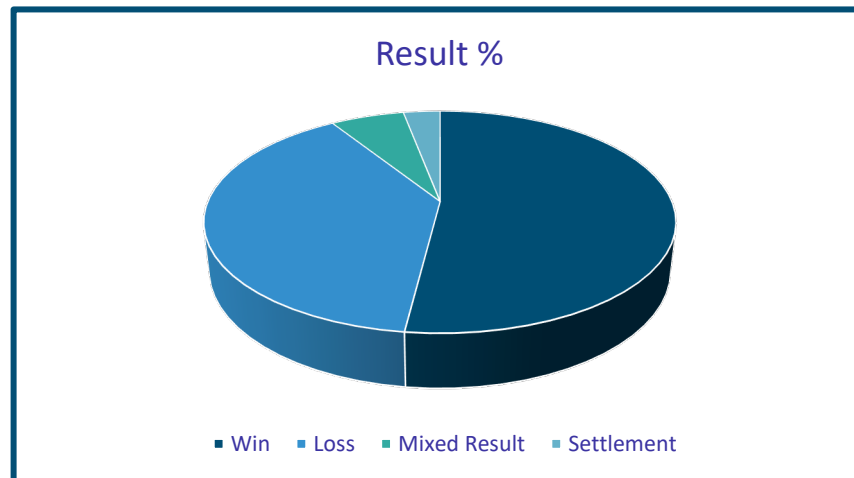
The first quarter was extremely busy for the Case Selection Committee (CSC). The committee considered 16 amicus requests; agreed to submit briefs in 7, declined in 7, and deferred decision on 2 matters. In the 7 accepted cases, PLAC will be briefing issues relating to federal preemption (FAA), sanctions, warnings, design defect and expert evidence.

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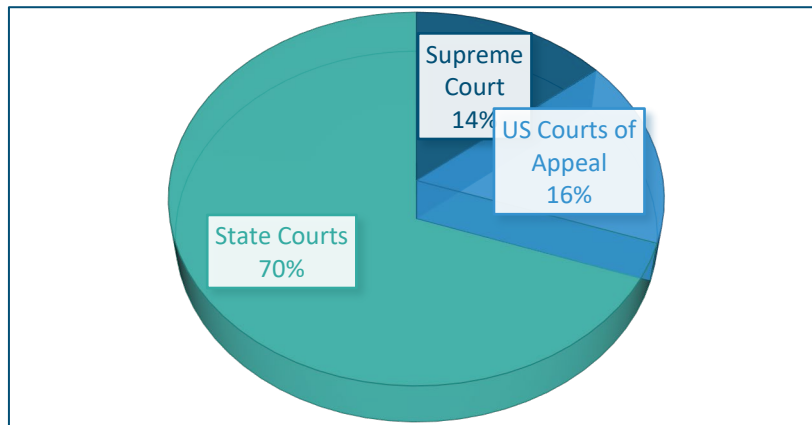
## Historical Summary of PLAC's Amicus Submissions

Over the past 35 years, PLAC has filed approximately 1100 amicus brief, and considered nearly twice as many requests. Briefs filed in the last 6 years are found in the Library on the PLAC website. We are currently working on a new database to capture all briefs that PLAC has written over the course of the association. We hope to have that in place by the end of 2019.

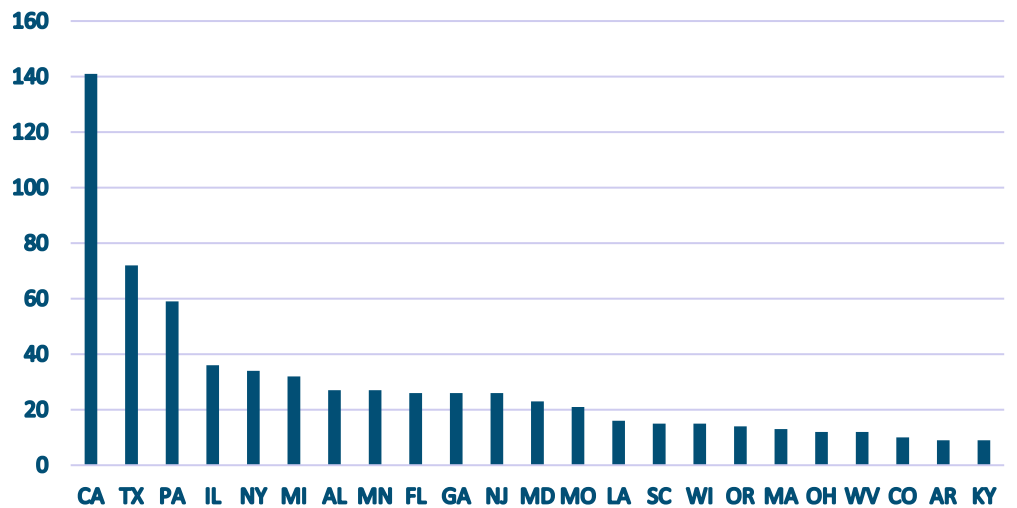
Utilizing information currently in our database, we compiled the following snapshot of our submissions:



## VENUE



## # Amici Filings by State



*PLAC's briefs address a wide variety of issues of critical importance to its members including the standard for appellate review, punitive damages, vicarious liability, innovator liability, personal jurisdiction and comparative fault.*

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## PLAC Case Selection Committee



### Leadership

John Thomas - Chair

Rita A. McConnell - Amicus Coordinator

Dykema

Fredrikson & Byron P.A.

### Committee Members

Jim Beck

Steve Burkhart

Dave Geiger

Ken Geller

Michael Hoenig

Jonathan M. Hoffman

Alan J. Lazarus

Wendy Lumish

Ruth Malinas

Chilton Davis Varner

Reed Smith

BIC Corporation

Foley Hoag

Mayer Brown

Herzfeld-Rubin

M|B Law Group

Drinker Biddle

Bowman & Brooke

Plunkett Griesenbeck

King & Spalding

*The committee welcomes applications for brief writers as we would like to have resources in all 50 states.*

*[Applications are available on the PLAC Website.](http://www.plac.com)*

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